# IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 32 OF 2007

M/S. LARSEN AND TOUBRO LTD.,
THROUGH ATTORNEY MR. SUNIL S.
AYYASWAMY ... Petitioner

Versus

M/S. RAGHUCHANDRA TRADERS,
CANACONA, GOA. ... Respondent

Mr. Siddharth Samant, Advocate for the petitioner.

Coram:- N. A. BRITTO, J.

Date:- 5th July, 2007

P.C.

Heard learned Counsel on behalf of the petitioner/complainant. The complainant had filed a complaint for dishonour of cheque dated 19.6.2003 for Rs.3,12,835/- issued in favour of the complainant by M/s Raghuchandra Traders. The complainant had filed the complaint, after the said cheque was dishonoured when presented for payment, against the said M/s Raghuchandra Traders, as accused no.1 and one Dattaraj Prabhu Gaonkar, as accused no.2. The contention of the learned Counsel is that the subject cheque was signed by Keshav Prabhu Gaonkar on behalf of M/s Raghuchandra Traders. As per the complainant, in the complaint, the said M/s Raghuchandra Traders was a proprietorship concern owned by said Mr. Keshav Prabhu Gaonkar and Dattaraj Prabhu Gaonkar/accused no.2. The learned Additional Sessions Judge after having placed reliance on several decided cases has come to the conclusion that accused no.1 was a non entity, or in other words as observed by him, a proprietary concern is not an independent, legal and juristic entity having legal recognition in the eyes of law which could either initiate proceedings or proceedings could be initiated against it and it is the proprietor of such concern who

could indict or to be indicted. The above is the correct view of the matter.

Although the complainant has stated in the complaint that the said business in the name of M/s Raghuchandra Traders was owned by the said Keshav Prabhu Gaonkar and Dattaraj Prabhu Gaonkar/accused no.2, the former was not made an accused in the cause title of the complaint in as much as no statutory notice was issued to him.

Learned Counsel submits that the statutory notice was issued in the name of the business concerned namely M/s.Raghuchandra Traders but it was returned unclaimed. This fact situation would not carry a presumption of service of notice against said Keshav Prabhu Gaonkar.

Since said Keshav Prabhu Gaonkar who according to the complainant had signed the subject cheque was not made an accused in the complaint nor a statutory notice was sent to him, no process could have been issued against him.

In my view, the order of the learned Additional Sessions Judge, in the circumstances of the case could not be faulted.

There is no merit in this petition. Therefore the same is dismissed.

N. A. BRITTO, J.

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